

DEPARTMENT OF STATE REVENUE

**LETTER OF FINDINGS NUMBER: 02-0200P
Gross and Adjusted Gross Income Tax
For the Year ended December 31, 2000**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

II. Tax Administration – Interest

Authority: IC 6-8.1-10.1

Taxpayer protests the interest assessed.

STATEMENT OF FACTS

Taxpayer filed its return late and was assessed a penalty. Taxpayer's tax liability was \$5,331 that it remitted after the due date along with \$187 in interest. An extension to file is not an extension for payment and the taxpayer was assessed a late payment penalty.

Taxpayer filed a penalty and interest protest dated February 8, 2002 stating that it made a payment of penalties and interest for 1999 and submitted its 2000 return with \$187 interest as well. Taxpayer states it made these payments in order to bring its account up to date, unaware of additional amounts being assessed. It has put in place the proper measures to avoid the event from happening again and requests a waiver of penalties and interest assessed.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and states that it paid penalties and interest for 1999 and submitted its 2000 return with \$187 interest to bring its account up to date.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

Taxpayer failed to remit its tax timely and has not provided reasonable cause to allow the department to waive the penalty.

FINDING

Taxpayer's protest is denied.

II. Tax Administration – Interest

DISCUSSION

Taxpayer protests the additional interest assessed.

Payment is first applied to penalties, interest, and then tax. Interest continues to accrue until payment in full has been received. The Department has no statutory authority to waive interest.

FINDING

Taxpayer's protest is denied.